REMARKS/ARGUMENTS

The foregoing amendment and the following arguments are provided to impart precision to the claims, by more particularly pointing out the invention, rather than to avoid prior art.

35 U.S.C. § 103(a) Rejections

In the prior final office action dated May 17, 2004, examiner rejected claims 1-5 and 9-24 under 35 U.S.C. § 103(a) as being unpatentable over U.S. Patent 6,519,766 (hereinafter "Barritz") in view of U.S. Patent 5,787,285 (hereinafter "Lanning") and further in view of U.S. Patent 5,465,258 (hereinafter "Adams").

> To establish *prima facie* obviousness of a claimed invention, all the claim limitations must be taught or suggested by the prior art. *In re Royka*, 490 F.2d 981, 180, USPQ 580 (CCPA 1974). (Manual of Patent Examining Procedure (MPEP) 2143.03).

Independent claims 1, 16, and 19 include claim limitations that are not disclosed nor suggested by Barritz, Lanning, nor Adams. As a result, applicant's independent claims are patentable over Barritz and Lanning in view of Adams.

In particular, applicant's independent claims include the claim limitation, or limitation similar thereto, of:

> ... obtaining performance data on a first program run on a <u>first system configuration of a first system</u> and obtaining performance data on the first program run on a <u>second system configuration of the first system, the performance data including a separate system profile for the program corresponding to the first and second system configurations</u>, the performance data obtained from a tool; and
> automatically sorting the performance data for each profile to allow for comparison between profiles. (Emphasis added). (Applicant's claim 1).

Barritz does not teach these limitations, and therefore, the independent claims are patentable over the reference. As noted by Examiner, Barritz does not disclose obtaining performance data on a first program run on a first system configuration of a first system and obtaining performance data on the first program run on a second system configuration of the first system, the performance data including a separate system profile for the program corresponding to the first and second system configurations, the performance data obtained from a tool; and automatically sorting the performance data for each profile to allow for comparison between profiles.

Rather, Barritz is directed towards providing a method for profiling one or more operational characteristics of a computer program and constructing a path map from gathered data in which the path map represents program operation performance relationships between the gathered events. (Barritz, col. 2, lines 58-67). As such, Barritz fails to describe the claimed limitation of obtaining performance data on the first program run on a second system configuration of the first system.

Further, Barritz teaches executing computer program profiler by one or more processing computers. Computer program profiler includes an analysis component for the analysis and creation of a path map. (Barritz, col. 4, lines 15-38). However, executing the program by multiple processing computers (multiple systems) does not teach or suggest obtaining performance data on a first program run on a first system configuration of a first system and obtaining performance data on the first program run on a second system configuration of the first system.

As such, the reference fails to teach each element of claims 1, 16, and 19. Moreover, there is no suggestion or motivation which would lead one of ordinary skill in the art to modify Barritz to include the claimed limitations.

In addition, Lanning fails to teach such limitations. As noted by Examiner, the combination of Barritz and Lanning does not disclose obtaining performance data on a first program run on a first system configuration of a first system and obtaining performance data on the first program run on a second system configuration of the first system, the performance data including a separate system profile for the program corresponding to the first and second system configurations, the performance data obtained from a tool; and automatically sorting the performance data for each profile to allow for comparison between profiles.

Rather, Lanning is directed to optimizing an executable software program containing a plurality of basic blocks for several different operational environments or operational modes. (Lanning, col. 2, lines 45-52). Lanning teaches, for each environment or mode, the frequency of execution for the block in that environment or mode is compared against a predetermined threshold value. (Lanning, FIGS. 4A-4D). Step 416 compares, for each basic block reachable from only entry point #1, the block's frequency of execution for profile P1 against a predetermined threshold value. (Lanning, col. 6, lines 50-54). Step 424 compares, for each basic block reachable from only entry point #2, the block's frequency of execution for profile P2 against a predetermined threshold value. (Lanning, col. 7, lines 4-9). Step 436 compares the frequency of execution in profile P1 for each block reachable from both entry point #1 and entry point #2 against a predetermined threshold value. (Lanning, col. 7, lines 29-33). Thus, Lanning teaches comparing frequency of execution, a performance data, against a predetermined threshold value. Accordingly, there is no discussion or desire in Lanning for possibly automatically sorting the performance data for each profile to allow for comparison between profiles, as is claimed by Applicant.

Therefore, since there is no suggestion or motivation to combine the reference teachings or to modify Barritz or Lanning to include the above limitations, the references, cannot render independent claims 1, 16, and 19 as obvious.

In addition, Adams fails to teach such limitations. Adams is directed to evaluating the performance of a particular computer program on a particular computer. Adams teaches invoking the analyzer module and providing it with a binary image of the target program, i.e., an executable version of the target program, and an architecture description file (ADF), which is an abstract model of the data representation used by a computer architecture. Further, Adams discloses the kernel module collects various performance information and stores it in dynamic data tables. The post-processor module further stores the combined data table as one of a series of archived data tables so that the performance of one target program can be compared to the performance of another. (Adams, col. 3, lines 17-49). The post-processor is also able to compare various executions of binary images, i.e., an executable version of the target program. For example, if a user receives an updated version of a program, he can run it and a previous version through the analyzer module, and use the post-processor to compare the instrumented images. (Adams, col. 8, lines 46-52).

Thus, Adams teaches evaluating performance of a target program on a target computer. Adams discloses collecting performance data on a first program (target program) on a first system configuration of a first system (target computer) which is compared to the performance of the first program (target program) on a second system (another computer). Accordingly, there is no discussion or desire in Adams for obtaining performance data on a first system configuration and second system configuration of a first system.

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Therefore, since there is no suggestion or motivation to combine the reference teachings or to modify Barritz, Lanning or Admas to include the above limitations, the references, cannot render independent claims 1, 16, and 19 as obvious.

Claims 2-15, 17-18, and 20-27 depend from one of the foregoing independent claims and include the novel limitations discussed above. Therefore, Barritz cannot render claims 2-15, 17-18, and 20-27 as obvious, Lanning cannot render claims 2-15, 17-18, and 20-27 as obvious, Adams cannot render claims 2-15, 17-18, and 20-27 as obvious, and the references in combination cannot render claims 2-15, 17-18, and 20-27 as obvious, and respectfully request the withdrawal of the rejection of the claims under 35 U.S.C. §103(a).

Claims 6 and 25

Examiner rejected claims 6 and 25 under 35 U.S.C. § 103(a) as being unpatentable over Barritz as applied to claim 5, in view of Lanning and further in view of Adams.

Claims 6 and 25 depend from one of the foregoing independent claims and include the novel limitations discussed above. Therefore, Barritz cannot render claims 6 and 25 as obvious, Lanning cannot render claims 6 and 25 as obvious, Adams cannot render claims 6 and 25 as obvious, and the references in combination cannot render claims 6 and 25 as obvious, and respectfully request the withdrawal of the rejection of the claims under 35 U.S.C. §103(a).

Claims 7, 8, 26, and 27

Examiner rejected claims 7, 8, 26, and 27 under 35 U.S.C. § 103(a) as being

unpatentable over Barritz, in view of Lanning, and further in view of Adams as applied to

claim 5, and further in view of U.S. Patent 6,070,009 (hereinafter "Dean").

As previously discussed, Barritz, Lanning, and Adams fail to teach each element

of the independent claims.

In addition, Dean fails to teach such limitations. Dean is directed to estimating

execution rates of program execution paths. Accordingly, there is no discussion or desire

in Dean for obtaining performance data on the first program run on a second system

configuration of the first system, the performance data including a separate system profile

for the program corresponding to the first and second system configurations, the

performance data obtained from a tool; and automatically sorting the performance data

for each profile to allow for comparison between profiles, as is claimed by Applicant.

Therefore, since there is no suggestion or motivation to combine the reference

teachings or to modify Barritz, Lanning, Adams or Dean to include the above limitations,

the references, cannot render independent claims 1, 16, and 19 as obvious.

Claims 7, 8, 26, and 27 depend from one of the foregoing independent claims and

include the novel limitations discussed above. Therefore, Barritz cannot render claims 7,

8, 26, and 27 as obvious, Lanning cannot render claims 7, 8, 26, and 27 as obvious,

Adams cannot render claims 7, 8, 26, and 27 as obvious, Dean cannot render claims 7, 8,

26, and 27 as obvious, and the references in combination cannot render claims 7, 8, 26,

and 27 as obvious, and respectfully request the withdrawal of the rejection of the claims

under 35 U.S.C. §103(a).

CONCLUSION

Applicants respectfully submit the present application is in condition for allowance. If the Examiner believes a telephone conference would expedite or assist in the allowance of the present application, the Examiner is invited to call the undersigned at (408) 720-8300.

Authorization is hereby given to charge our Deposit Account No. 02-2666 for any charges that may be due.

Respectfully submitted,

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